

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

WILLIAM BOYLE,

Plaintiff,

-against-

**MEMORANDUM
AND ORDER**

NEW YORK LEGISLATURE, void in rem
statutes; NEW YORK CITY; NYC
DEPARTMENT OF FINANCE; NYC
PARKING VIOLATIONS BUREAU,

09-CV-0385 (BMC)(LB)

Defendants.

X

On January 26, 2009, plaintiff, proceeding *pro se*, filed a complaint against New York City, various New York City agencies and the New York legislature alleging that the towing of his vehicle without a hearing deprived him of his constitutional rights. By Order dated February 17, 2009, the Court granted *in forma pauperis* status, and dismissed all claims against the New York City agencies and the legislature, and found that, as presently stated, the complaint failed to state a claim on which relief may be granted pursuant to 28 U.S.C. § 1915 (e)(2)(B). However, in an abundance of caution and because plaintiff is proceeding *pro se*, the Court broadly construed the complaint, McEachin v. McGuinnis, 357 F.3d 197, 200 (2d Cir. 2004), as alleging that the towing of his vehicle violated his procedural due process rights, and afforded plaintiff thirty days to set forth a procedural due process claim against the City of New York. Cuoco v. Moritsugu, 222 F.3d 99, 112 (2d Cir. 2000). Plaintiff timely filed an amended complaint on March 9, 2009.

CONCLUSION

Plaintiff's 42 U.S.C. § 1983 claim against the City of New York is permitted to proceed. The Clerk of Court is directed to issue a summons against the City of New York and the United States Marshals Service is directed to serve the summons, complaint, amended complaint, the Court's February 17, 2009 Order, and this Order on this defendant without prepayment of fees. A courtesy copy of the same documents also shall be served on the Corporation Counsel for the City of New York. The case is referred to the Honorable Lois Bloom, United States Magistrate Judge, for pretrial supervision. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/Signed by Judge Brian M. Cogan/

U.S.D.J.

Dated: Brooklyn, New York
March 17, 2009